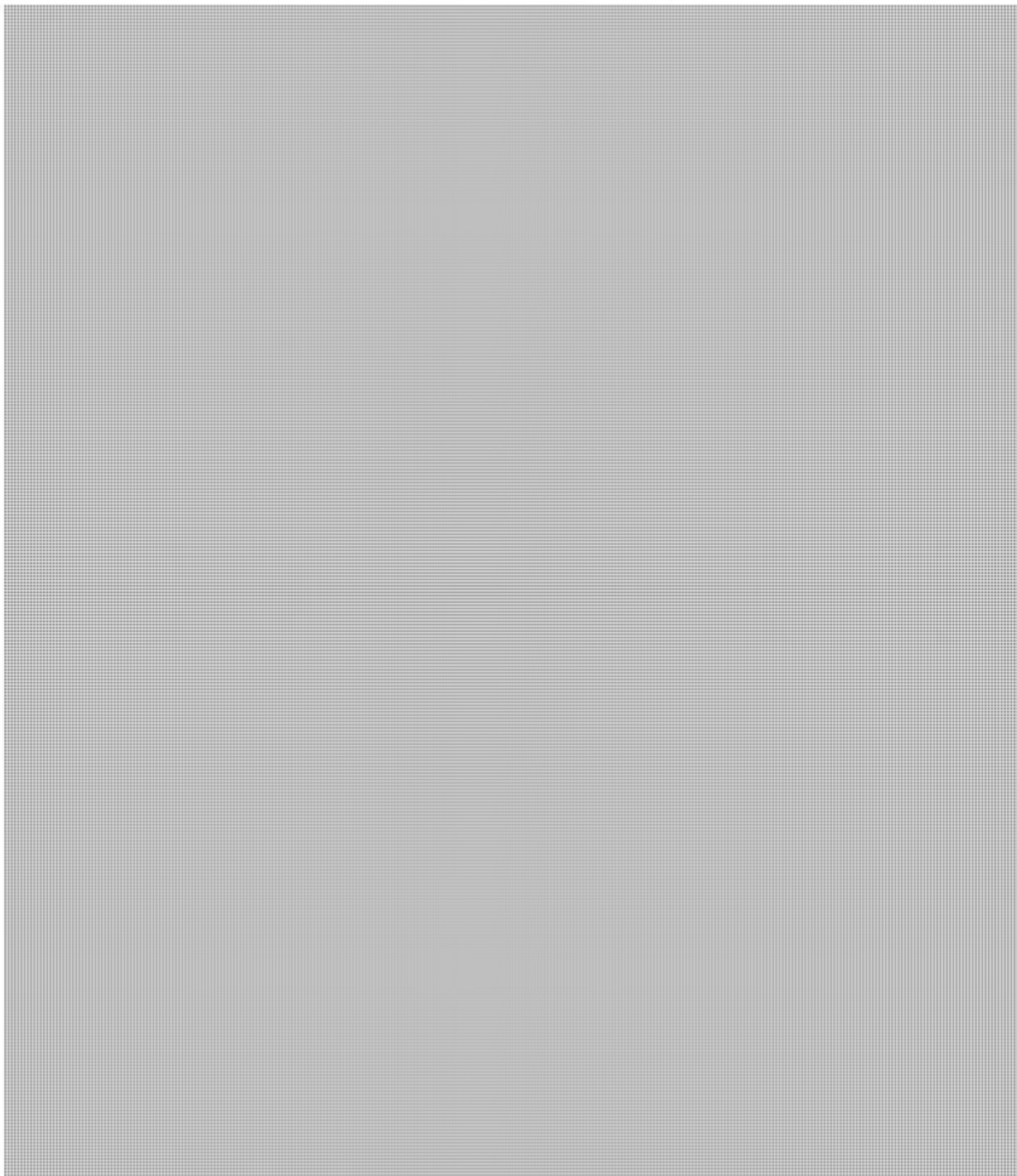
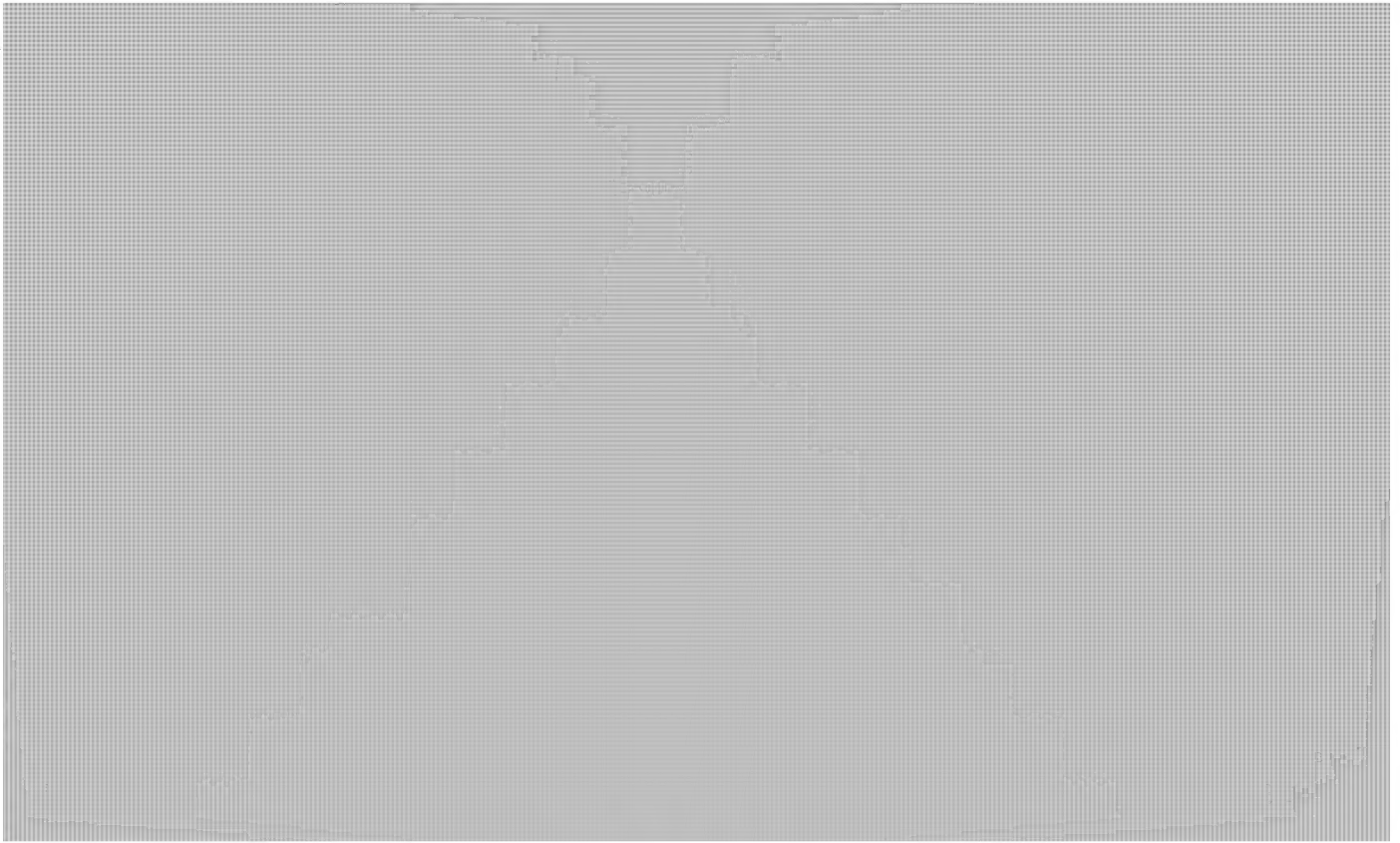


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s.21(1)(a)

s.23



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21(1)(a), 23

**of the Access to Information Act
de la Loi sur l'accès à l'information**

From: Sargent, Laurie
Sent: October 12, 2011 7:47 PM
To: Markham, Karen
Cc: van Dieen, Jodie; Zaluski, Stephen
Subject: [REDACTED]

Karen,



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s.23

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69(1)(e)

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Advice to the Minister
ISSUE:

PROPOSED RESPONSE:

- **There are no anticipated federal costs associated with Bill C-309.**
- **The Bill creates two new offences to specifically address persons who are a member of an unlawful assembly or take part in a riot while wearing a mask for the purpose of concealing their identity, without lawful excuse.**
- **It is anticipated that the Bill will assist police in identification of participants in unlawful assemblies and riots.**

BACKGROUND:

Private Member's Bill C-309, *An Act to Amend the Criminal Code* (concealment of identity) was introduced by Blake Richards (Conservative: Wild Rose) on October 3, 2011. The Bill received Second Reading and was referred to the House of Commons Standing Committee on Justice and Human Rights on February 15, 2012. It is anticipated that the Committee will commence consideration of the Bill in either March or April, 2012.

The sponsor of the Bill has indicated that the purpose of the Bill is to create two new offences that denounce the wearing of masks to conceal identity during an unlawful assembly or riot and facilitate the arrest of rioters at earlier stages of the event. The sponsor also stated that the Bill responds to concerns about the difficulty of identifying masked rioters during the 2011 Vancouver riots. Government support for Bill C-309 is consistent with the Government's 2011 Speech from the Throne commitment to protect Canadians from crime.

The current sections in the *Criminal Code* pertaining to taking part in a riot and being a member of an unlawful assembly have remained virtually unchanged since 1892, with the exception of the reclassification of section 66 as a straight summary conviction offence in 1955. Section 65 of the *Criminal Code* provides for an indictable offence, with a maximum penalty of two years, for every person who takes part in a riot. Section 66 of the *Code* creates a summary conviction offence, with a maximum penalty of a \$5,000 fine and/or term of imprisonment of six months, for a person who is a member of an unlawful assembly. An unlawful assembly precedes a riot.

The Bill would create two new offences. A new indictable offence would be added to section 65 of the *Criminal Code* to criminalize wearing a mask or other disguise to conceal identity, without lawful excuse, while taking part in a riot. The Bill proposes a maximum penalty for this new indictable offence of five years. The Bill would also create a new hybrid offence in section 66 of the *Code* for wearing a mask or other disguise to conceal identity, without lawful excuse, while being a member of an unlawful assembly. The penalty for this offence would be a maximum penalty of five years on indictment and a maximum \$5,000 fine and/or six months imprisonment on summary conviction.

The *Criminal Code* already criminalizes many of the acts associated with rioting, such as threats of violence, assaulting other persons or police officers, damage to property, theft and breaking and entering. The wearing of masks in the commission of these offences during a riot is also addressed. Subsection 351(2) of the *Code* creates an indictable offence for everyone who, with intent to commit an indictable offence, has his/her face masked or coloured or is otherwise disguised. Taking part in a riot is one of the indictable offences to which subsection 351(2) of the *Criminal Code* applies. A person convicted of an offence pursuant to subsection 351(2) of the *Code* for wearing a mask while taking part in a riot is subject to a maximum penalty of ten years. By contrast, the proposed offence in the Bill for the same conduct provides for a maximum penalty of five years. To address this inconsistency it is anticipated that an amendment will be sought at the Justice Committee to raise the penalty for the new offence in subsection 65(2) from five years to ten years.

The Bill would also address a gap in the law because subsection 351(2) of the *Criminal Code* does not apply to summary conviction offences and thus does not address the situation of a person wearing a mask or disguise to conceal their identity while being a member of an unlawful assembly.

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Date: March 1, 2012